



## DEPARTMENT OF THE TREASURY

### Office of the Comptroller of the Currency

#### 12 CFR Parts 19 and 109

#### Notification of Inflation Adjustments for Civil Money Penalties

**AGENCY:** Office of the Comptroller of the Currency, Treasury.

**ACTION:** Notification of Monetary Penalties 2022.

**SUMMARY:** This document announces changes to the Office of the Comptroller of the Currency's (OCC) maximum civil money penalties as adjusted for inflation. The inflation adjustments are required to implement the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

**DATES:** The adjusted maximum amount of civil money penalties in this document are applicable to penalties assessed on or after [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER] for conduct occurring on or after November 2, 2015.

**FOR FURTHER INFORMATION CONTACT:** Lee Walzer, Counsel, Chief Counsel's Office, (202) 649-5490, Office of the Comptroller of the Currency.

#### **SUPPLEMENTARY INFORMATION:**

This document announces changes to the maximum amount of each civil money penalty (CMP) within the OCC's jurisdiction to administer to account for inflation pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (the 1990 Adjustment Act),<sup>1</sup> as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (the 2015 Adjustment Act).<sup>2</sup> Under the 1990 Adjustment Act, as amended, federal agencies must

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<sup>1</sup> Pub. L. 101-410, Oct. 5, 1990, 104 Stat. 890, codified at 28 U.S.C. 2461 note.

<sup>2</sup> Pub. L. 114-74, Title VII, section 701(b), Nov. 2, 2015, 129 Stat. 599, codified at 28 U.S.C. 2461 note.

make annual adjustments to the maximum amount of each CMP they administer. The Office of Management and Budget (OMB) is required to issue guidance to federal agencies no later than December 15 of each year providing an inflation adjustment multiplier (*i.e.*, the inflation adjustment factor agencies must use) applicable to CMPs assessed in the following year. The agencies are required to publish their CMPs, adjusted pursuant to the multiplier provided by the OMB, by January 15 of the applicable year.

To the extent an agency codified a CMP amount in its regulations, the agency would need to update that amount by regulation. However, if an agency codified a formula for making the CMP adjustments, then subsequent adjustments can be made solely by notice.<sup>3</sup> In 2018, the OCC published a final regulation that removed the CMP amounts from its regulations while updating the CMP amounts for inflation through the notice process.<sup>4</sup>

On December 15, 2021, the OMB issued guidance to affected agencies on implementing the required annual adjustment, which included the relevant inflation multiplier.<sup>5</sup> The OCC has applied that multiplier to the maximum CMPs allowable in 2021 for national banks and Federal savings associations as listed in the 2021 CMP notice<sup>6</sup> to calculate the maximum amount of CMPs that may be assessed by the OCC in 2022.<sup>7</sup> There were no new statutory CMPs administered by the OCC during 2021.

The following charts provide the inflation-adjusted CMPs for use beginning on [INSERT DATE OF PUBLICATION IN THE **FEDERAL REGISTER**], pursuant to 12 CFR 19.240(b) and 109.103(c)(2) for conduct occurring on or after November 2, 2015:

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<sup>3</sup> See OMB Memorandum M-18-03, Implementation of the 2018 Annual Adjustment Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, at 4, which permits agencies that have codified the formula to adjust CMPs for inflation to update the penalties through a notice rather than a regulation.

<sup>4</sup> 83 FR 1517 (Jan. 12, 2018) (final rule); 83 FR 1657 (Jan. 12, 2018) (2018 CMP Notice).

<sup>5</sup> The inflation adjustment multiplier for 2022 is 1.06222. See OMB Memorandum M-22-07, Implementation of Penalty Inflation Adjustments for 2022, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2021).

<sup>6</sup> See 85 FR 86,795 (Dec. 31, 2020).

<sup>7</sup> Penalties assessed for violations occurring prior to November 2, 2015, will be subject to the maximum amounts set forth in the OCC's regulations in effect prior to the enactment of the 2015 Adjustment Act.

Penalties Applicable to National Banks

<u>U.S. Code Citation</u>	<u>Description and Tier (if applicable)</u>	<u>Maximum Penalty Amount (in Dollars)<sup>1</sup></u>
12 U.S.C. 93(b)	Violation of Various Provisions of the National Bank Act: Tier 1 Tier 2 Tier 3	11,011 55,052 2,202,123 <sup>2</sup>
12 U.S.C. 164	Violation of Reporting Requirements: Tier 1 Tier 2 Tier 3	4,404 44,043 2,202,123 <sup>2</sup>
12 U.S.C. 481	Refusal of Affiliate to Cooperate in Examination	11,011
12 U.S.C. 504	Violation of Various Provisions of the Federal Reserve Act: Tier 1 Tier 2 Tier 3	11,011 55,052 2,202,123 <sup>2</sup>
12 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act: Tier 1 Tier 2 Tier 3	11,011 55,052 2,202,123 <sup>2</sup>
12 U.S.C. 1818(i)(2) <sup>3</sup>	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty: Tier 1 Tier 2 Tier 3	11,011 55,052 2,202,123 <sup>2</sup>
12 U.S.C. 1820(k)(6)(A)(ii)	Violation of Post-Employment Restrictions: Per violation	362,217

<sup>1</sup> The maximum penalty amount is per day, unless otherwise indicated.

<sup>2</sup> The maximum penalty amount for a national bank is the lesser of this amount or 1 percent of total assets.

<sup>3</sup> These amounts also apply to CMPs in statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1693o, 1681s, 1691c, and 1692l.

<u>U.S. Code Citation</u>	Description and Tier (if applicable)	Maximum Penalty Amount (in Dollars) <sup>1</sup>
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instrument for Transfers to Third Parties: Per violation	3,198
12 U.S.C. 1884	Violation of the Bank Protection Act	320
12 U.S.C. 1972(2)(F)	Violation of Anti-Tying Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of Fiduciary Duty: Tier 1 Tier 2 Tier 3	11,011 55,052 2,202,123 <sup>2</sup>
12 U.S.C. 3110(a)	Violation of Various Provisions of the International Banking Act (Federal Branches and Agencies):	50,326
12 U.S.C. 3110(c)	Violation of Reporting Requirements of the International Banking Act (Federal Branches and Agencies): Tier 1 Tier 2 Tier 3	4,027 40,259 2,013,008 <sup>2</sup>
12 U.S.C. 3909(d)(1)	Violation of International Lending Supervision Act	2,739
15 U.S.C. 78u-2(b)	Violation of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act: Tier 1 (natural person) – Per violation Tier 1 (other person) – Per violation Tier 2 (natural person) – Per violation Tier 2 (other person) – Per violation Tier 3 (natural person) – Per violation Tier 3 (other person) – Per violation	10,360 103,591 103,591 517,955 207,183 1,035,909
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements: First violation Subsequent violations	12,647 25,293
42 U.S.C. 4012a(f)(5)	Flood Insurance: Per violation	2,392

Penalties Applicable to Federal Savings Associations

<u>U.S. Code Citation</u>	<u>CMP Description</u>	<u>Maximum Penalty Amount (in Dollars)<sup>8</sup></u>
12 U.S.C. 1464(v)	Reports of Condition: 1 <sup>st</sup> Tier 2 <sup>nd</sup> Tier 3 <sup>rd</sup> Tier	4,404 44,043 2,202,123 <sup>2</sup>
12 U.S.C. 1467(d)	Refusal of Affiliate to Cooperate in Examination	11,011
12 U.S.C. 1467a(r)	Late/Inaccurate Reports: 1 <sup>st</sup> Tier 2 <sup>nd</sup> Tier 3 <sup>rd</sup> Tier	4,404 44,043 2,202,123 <sup>2</sup>
12 U.S.C. 1817(j)(16)	Violation of Change in Bank Control Act: Tier 1 Tier 2 Tier 3	11,011 55,052 2,202,123 <sup>2</sup>
12 U.S.C. 1818(i)(2) <sup>3</sup>	Violation of Law, Unsafe or Unsound Practice, or Breach of Fiduciary Duty Tier 1 Tier 2 Tier 3	11,011 55,052 2,202,123 <sup>2</sup>
12 U.S.C. 1820(k)(6)(A)(ii)	Violation of Post-Employment Restrictions: Per violation	362,217
12 U.S.C. 1832(c)	Violation of Withdrawals by Negotiable or Transferable Instruments for Transfers to Third Parties: Per violation	2,907
12 U.S.C. 1884	Violation of the Bank Protection Act	320
12 U.S.C. 1972(2)(F)	Violation of Provisions regarding Correspondent Accounts, Unsafe or Unsound Practices, or Breach of	

<sup>8</sup> The maximum penalty amount is per day, unless otherwise indicated.

<sup>2</sup> The maximum penalty amount for a federal savings association is the lesser of this amount or 1 percent of total assets.

<sup>3</sup> These amounts also apply to statutes that cross-reference 12 U.S.C. 1818, such as 12 U.S.C. 2804, 3108, 3349, 4309, and 4717 and 15 U.S.C. 1607, 1681s, 1691c, and 1692l.

<u>U.S. Code Citation</u>	<u>CMP Description</u>	<u>Maximum Penalty Amount (in Dollars)<sup>8</sup></u>
	Fiduciary Duty: Tier 1 Tier 2 Tier 3	11,011 55,052 2,202,123 <sup>2</sup>
15 U.S.C. 78u-2(b)	Violations of Various Provisions of the Securities Act, the Securities Exchange Act, the Investment Company Act, or the Investment Advisers Act: 1 <sup>st</sup> Tier (natural person) – Per violation 1 <sup>st</sup> Tier (other person) – Per violation 2 <sup>nd</sup> Tier (natural person) – Per violation 2 <sup>nd</sup> Tier (other person) – Per violation 3 <sup>rd</sup> Tier (natural person) – Per violation 3 <sup>rd</sup> Tier (other person) – Per violation	10,360 103,591 103,591 517,955 207,183 1,035,909
15 U.S.C. 1639e(k)	Violation of Appraisal Independence Requirements: First violation Subsequent violations	12,647 25,293
42 U.S.C. 4012a(f)(5)	Flood Insurance: Per violation	2,392

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